

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.58 of 2007

Date of decision: 5.7.2007.

Raj Kumar

....Petitioner

-Versus-

State of H.P. and others

....Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, ACJ.

The Hon'ble Mr.Justice V.K.Ahuja, Judge.

Whether approved for reporting? No

For the Petitioner: Mr.Ramesh Sharma, Advocate.

For Respondents: Mr.M.S.Chandel, Advocate General with
Mr.A.Burathoki, Addl.A.G. for
respondents 1 to 3.

Deepak Gupta, A.C.J.(Oral)

The Director of Education Mrs.Anita Rao and Sh.Kanwar Singh, Principal of Rattan Kumari Memorial Government Senior Secondary School, Nogli are present in person. The Director of Education has shown to us a communication sent to her by the Principal on 11th April, 2007 alongwith his seriatum observations. The observation No.7 which is relevant states that Man Singh Chauhan was elected as President of the Parents Teachers Association (PTA) because his children Himani, Roll No.1606, Class 8th and Chander Shekher Roll No.1279, Class 9th are students of the said school. It is obvious that the Director of Education has

filed her affidavit on the basis of this information supplied by the Principal.

Today, the Principal who is present in person has clearly admitted that in fact the children of Man Singh Chauhan are not studying in the school but according to him Man Singh Chauhan has been elected President being the guardian/blood relative of the children.

We are clearly of the view that though the Education Code does provide that the parent or guardian of the child who is blood relative can be a member of the PTA, the question of a guardian becoming a Member shall only arise if either the natural parents of the child are dead or for some other reasons beyond their control are not able to look after their children. Before permitting a guardian to become a Member of the PTA, it must be shown that the guardian is in fact looking after the child or that the child is residing with him. Unless it is shown that the natural parent(s) cannot look after the interest of the child the guardian cannot be allowed to be a member of the PTA. The petitioner has also attached Annexure P-2 a copy of the letter No.EDN-H(8)17(2)46/2006-PTA dated 19.8.2006 sent by the Director of Higher Education, Himachal Pradesh wherein it is clearly mentioned that the President of the PTA can only be a parent of the child. Therefore, even if a guardian is permitted to become a member he cannot become the President of the PTA. We also find from the record that the father of Himani is a Government servant. Why could he not look after his daughter? A notice was given to

Man Singh but he has not appeared despite service of notice and has failed to explain the circumstances under which he has acted as guardian of his minor niece. We are of the considered view that Man Singh had no right to become President of the PTA of the School. We, therefore, direct that henceforth respondent No.4 shall cease to function as President of the PTA of Rattan Kumari Memorial Government Senior Secondary School, Nogli.

Since we have held that respondent No.4 was illegally elected President of the PTA the entire constitution of the PTA was illegal and all the selections made by the PTA are vitiated and accordingly quashed.

The writ petition is allowed in the aforesaid terms. The election of respondent No.4 as President of the PTA is quashed and the appointments of the Lecturers made by the PTA headed by Man Singh Chauhan, respondent No.4 are also set-aside. However, keeping in view the interest of the children the teachers appointed by the PTA shall continue to work till fresh appointments are made. We direct the Principal of Rattan Kumari Memorial Government Senior Secondary School, Nogli to ensure that new PTA is constituted within one month from today and thereafter advertisements are issued inviting applications for all the posts of Lecturers, selection whereof have to be made by the newly constituted PTA in accordance with law. These appointments shall be made strictly on the basis of merit latest by 31st October, 2007. No costs.

In view of the disposal of the writ petition CMP No.118 of 2007 is also disposed of.

**(Deepak Gupta),
Acting Chief Justice,**

July 5, 2007.
PV

**(V.K. Ahuja),
Judge**